IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 381 OF 2005

Shivaji Kisan Chavan..... ... Appellant.

Versus

Jagannath Maruti Pawar & Ors..... Respondents.

Mr. Arun Palekar for the Appellant.

None for the Respondents.

CORAM : A. S. OKA, J.

DATED : 21ST APRIL, 2005.

P.C.:

Heard Shri Palekar, learned Counsel appearing for the appellant.

2. The second appeal is by the unsuccessful plaintiff. The trial court decreed the suit. In an appeal preferred by the original defendants, the first appellate court has interfered and the suit filed by the appellant has been dismissed.

3. The dispute is regarding right in respect of the

suit well. After having heard Shri Palekar, learned Counsel for the appellant, I find that there is no substantial question of law involved in the second appeal. The appellate court has relied upon the agreements at Exhibit 129 and Exhibit 130 to which parties to the suit are signatories. After considering the said documents, the appellate court has recorded a finding that the original plaintiff is not the exclusive owner of the suit well and along with the original plaintiff even the defendants have a right to draw water from the well. In view of findings based on appreciation of documentary and oral evidence on record, no case is made out for interference. Hence, second appeal is dismissed with no order as to costs.

4. Parties and the concerned Court to act on the authenticated copy of this order.

Sd/-

(A. S. OKA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 381 OF 2005

Shivaji Kisan Chavan..... ... Appellant.

Versus

Jagannath Maruti Pawar & Ors..... Respondents.

Mr. Arun Palekar for the Appellant.

None for the Respondents.

CORAM : A. S. OKA, J.

DATED : 21ST APRIL, 2005.

P.C.:

In view of the dismissal of the second appeal, this civil application does not survive. Hence rejected.

Sd/-

(A. S. OKA, J.)